UNITED STATES PATENT AND TRADEMARK OFFICE

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10/761,612	01/21/2004	Manabu Yamazoe	B984-072	3508

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EXAMINER
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ART UNIT	PAPER NUMBER
2625	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____ .

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-20_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-20_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☒ All b) ☐ Some * c) ☐ None of:

    1. ☒ Certified copies of the priority documents have been received.

    2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

    3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____ .

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

DETAILED ACTION

Claim Rejections - 35 USC § 101

1.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 17 and 20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The program claimed is merely a set of instructions per se. Since the program is merely a set of instructions not embodied on a computer readable medium to realize the computer program functionality, the claimed subject matter is non-statutory.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Atkins et al. US 7148990.

3.   Regarding claim 1, Atkins et al. teaches an image extracting method of extracting a predetermined number of images from a plurality of images, comprising:

an input step of inputting evaluations for the plurality of images and an extraction step of extracting the predetermined number of images from the plurality of images based on the input evaluations (column 4, lines 30-38).

4.   Regarding claim 2, Atkins et al. teaches input step comprises sequentially inputting the evaluations for respective ones of the plurality of images (column 5, lines 20-24).

5.   Regarding claim 3, Atkins et al. teaches wherein the evaluations are input in chronological order (column 5, lines 26-32).

6.   Regarding claim 4, Atkins et al. teaches wherein said input step comprises inputting an instruction for image correction processing including an image correction, in addition to inputting the evaluations (column 5, lines 1-5).

7.   Regarding claim 5, Atkins et al. teaches an album creation step of creating a photo album by arranging the extracted images on each page of the photo album (column 5, lines 51-56).

8.   Regarding claim 6, Atkins et al. teaches of arranging the extracted images on each page of the photo album based on the input evaluations (column 5, lines 63-65).

9.   Regarding claim 7, Atkins et al. teaches a division step of dividing the plurality of images into a plurality of groups (column 5, lines 65-67) and wherein said extraction step comprises extracting at least one image from images belonging to each of the groups

into which the plurality of images are divided and executing the extraction of images

until the predetermined number of images is reached (column 6,lines 4-11).

10.   Regarding claim 8, Atkins et al. teaches wherein said division step comprises

designating a group to which each of the plurality of images is to belong and carrying

out the division according to the designated group (column 6,lines 4-11).

11.   Regarding claim 9, Atkins et al. teaches wherein said division step comprises

dividing the images according to times of creation of the images (column 3, lines 9-12

and column 6,lines 4-11).

12.   Regarding claim 10, Atkins et al. teaches an extraction number input step of

inputting a number of images to be extracted from each of the groups into which the

plurality of images is divided (column 5,lines 64- column 6,lines 1-4).

13.   Regarding claim 11, Atkins et al. teaches of an album creation step of creating a

photo album by arranging images extracted from each of the groups into which the

plurality of images is divided on each page of the photo album (column 5,lines 64-

column 6,lines 1-4).

14.   Regarding claim 12, Atkins et al. teaches wherein said album creation step

comprises arranging the extracted images from each of the groups into which the

plurality of images is divided on each page of the photo album based on the input

evaluations (column 3, lines 9-12 and column 6,lines 4-11).

15.   Regarding claim 13, Atkins et al. teaches wherein said album creation step

comprises arranging the extracted images from the groups into which the plurality of

images are divided on pages of the photo album based on the groups into which the

plurality of images are divided (column 3, lines 9-12 and column 6,lines 4-11).

16.   Regarding claim 14, Atkins et al. teaches wherein said input step further

comprises inputting an initial evaluation value intermediate between a highest

evaluation value and a lowest evaluation value (column 5, lines 5-9).

17.   Regarding claim 15, Atkins et al. teaches wherein said input step comprises

inputting the evaluations set according to operation of an operating element (column

4,lines 34-38).

18.   Regarding claim 16, the method of claim 1 performs all of the structural elements

of claim 16. Thus, claim 16 is rejected for the same reasons discussed in the rejection

of claim 1.

19.   Regarding claim 17, Atkins et al. teaches of a program for causing a computer to

execute an image extracting method of extracting a predetermined number of images

from a plurality of images (column 2,lines 67 – column 3,lines 1-3), the program

comprising: a module for inputting evaluations for the plurality of images (column 4,lines

35-39) and a module for extracting the predetermined number of images from the

plurality of images based on the input evaluations (column 4,lines 30-38).

20.   Regarding claim 18, Atkins et al. teaches an image extracting method of

extracting a predetermined number of images from a plurality of images, comprising: a

recognition step of recognizing evaluations set for the plurality of images (column 4,lines

30-38), a division step of dividing the plurality of images into a plurality of groups

(column 5,lines 65-67) and an extraction step of extracting the predetermined number of

images by extracting at least one image from images belonging to each of the groups (column 6,lines 4-11).

21.   Regarding claim 19, Atkins et al. teaches an image extracting apparatus that extracts a predetermined number of images from a plurality of images, comprising: a recognition device that recognizes evaluation values set for the plurality of images (column 4,lines 30-38); a division device that divides the plurality of images into a plurality of groups (column 5,lines 65-67); and an extraction device that extracts the predetermined number of images by extracting at least one image from images belonging to each of the groups(column 6,lines 4-11).

22.   Regarding claim 20, Atkins et al. teaches of a program for causing a computer to execute an image extracting method of extracting a predetermined number of images from a plurality of images (column 2,lines 67 – column 3,lines 1-3), the program comprising: a module for recognition device that recognizes evaluation values set for the plurality of images (column 4,lines 30-38) and a module for dividing the plurality of images into a plurality of groups (column 5,lines 65-67), an extraction module for extracting the predetermined number of images by extracting at least one image from images belonging to each of the groups(column 6,lines 4-11).

Conclusion

1.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Burleson whose telephone number is 571-272-

7460. The examiner can normally be reached Monday through Friday from 8:30 A.M. to

5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Twyler Lamb can be reached on 571-272-7406.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Michael Burleson

Patent Examiner

KIMBERLY WILLIAMS
PRIMARY PATENT EXAMINER

June 24, 2007